

AMENDMENTS TO THE CLAIMS

Please cancel claims 6, 9-13, 16-18, 21, 23-25, 28, 30-38 and 41-46 without prejudice or disclaimer of the subject matter set forth herein.

This listing of claims will replace all prior versions and listings of claims in the application:

Listing of claims:

1. (previously presented) An isolated nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 and that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid.

2-3. (canceled)

4. (previously presented) The nucleic acid according to claim 1, consisting of a polynucleotide having the sequence of SEQ ID NO: 1.

5. **(previously presented)** A nucleic acid comprising a plurality of nucleic acids according to claim 1 or 4 that are ligated.

6-25. **(canceled)**

26. **(previously presented)** A plant, or progeny thereof, comprising a recombinant vector comprising a nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid

and a structural gene located downstream of said nucleic acid whose expression in a cell is promoted by said nucleic acid.

27. **(previously presented)** A plant, or progeny thereof, comprising at least polynucleotide no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature

from 50 to 65 °C, and which has activity to promote expression of a structural gene located downstream of said nucleic acid,

wherein said at least one polynucleotide is inserted into an intron of a structural gene.

28-46. (canceled)